

CASE GY83A DIV2

**CERTIFICATE OF FACSIMILE TRANSMISSION**

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Samuel J. DuBoff

Type or print name

  
Signature

November 15, 2004

Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED**  
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IN RE APPLICATION OF

ART UNIT: 1624

TAO WANG, ET AL

EXAMINER: EMILY B. BERNHARDT

APPLICATION NO: 10/621,139

FILED: JULY 16, 2003

FOR: ANTIVIRAL AZAINDOLE DERIVATIVES

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FOR INFORMATION DISCLOSURE**

Sir:

This paper is being filed concurrently with the Request for Continued Examination (RCE) Transmittal. Therefore, no fees are required. If a fee is deemed to be required, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 19-3880.

In accordance with 37 C.F.R. §1.56, applicant wishes to call the Examiner's attention to the reference cited on the attached form(s) PTO-1449.

A Notice of Allowance was mailed on August 11, 2004. The Issue Fee for patent grant was paid by Applicant on August 26, 2004.

## CASE GY83A DIV2

On September 2, 2004, Applicant first became aware of a relevant prior art patent not previously of record for this application – namely, European Patent 379134 published July 25, 1990.

This patent came to Applicant's attention from a fax letter dated September 2, 2004 and received by Applicant on September 3, 2004 from our patent agent representing Applicant in the corresponding Peru patent application. A copy of this patent reference and agent letter of September 2, 2004 are herein enclosed with this IDS.

Since this patent was not of record in the present U.S. case, Applicant wishes to bring this prior art to the attention of the Patent Office by way of requesting consideration for withdrawing from issue the present application and granting the Request for Continued Examination (RCE), including submittal of the IDS.

The compounds (1) presently allowed in claims 53 and 54, while broadly encompassed within the definition of compound II at page 3 of the European patent, are not claimed or disclosed elsewhere in the patent. In fact, the only claim to compounds of Formula II is in claim 8 as compounds IIA, which are quite different from the di-substituted compounds claimed by Applicant herein.

Specifically, the cited European patent does not disclose such di-substituted 6-azaindole compounds, nor the specific substituents for R<sub>2</sub> and R<sub>4</sub>, including more specifically the methoxy substituents for groups R<sub>2</sub> and R<sub>4</sub>. The cited reference only claims in claim 8 compounds of Formula IIA which are mono-substituted with R<sup>4</sup> and are 4-azaindoles (i.e. the 6-membered ring nitrogen is in the 4-position). In the European patent, at page 3, lines 29-40, are specified only mono-substituted (i.e. R<sup>4</sup> group) azaindoles where the nitrogen atom is at group A (i.e. the 4-position). Again, this is different from that claimed by Applicants herein.

In view of the above remarks, it is respectfully submitted that the claims 53 and 54 as previously allowed are still in condition for allowance even in view of this newly cited European patent.

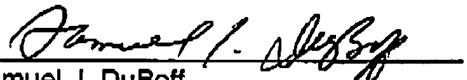
Early and favorable action is respectfully solicited.

**CASE GY83A DIV2**

The Examiner is requested to consider the foregoing information in relation to this application and indicate that the reference was considered by returning a copy of the initialed PTO 1449 form(s).

Respectfully submitted,

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Date: 11/15/04

FORM PTO-1449  
(REV. 7-85)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE**INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

ATTY. DOCKET NO.  
GY83A DIV2  
APPLICATION NO.  
10/621,139  
APPLICANT  
TAO WANG ET AL  
FILING DATE  
JULY 16, 2003

Sheet 1 of 1

Group

**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						

**FOREIGN PATENT DOCUMENTS**

		DOCUMENT NUMBER	DATE	OFFICE	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	AM	EP 0379314A1	7/25/90	European Patent App.			<input type="checkbox"/>	<input type="checkbox"/>
	AN						<input type="checkbox"/>	<input type="checkbox"/>
	AO						<input type="checkbox"/>	<input type="checkbox"/>
	AP						<input type="checkbox"/>	<input type="checkbox"/>
	AQ						<input type="checkbox"/>	<input type="checkbox"/>

**OTHER DOCUMENTS** (Including Author, Title, Date, Pertinent pages, Etc.)

	AR	
	AS	
	AT	

**EXAMINER****DATE CONSIDERED**

\*EXAMINER: Initial of reference considered, whether or not citation is in conformance with MPEP 609; Draw a line through citation if not in conformance and not considered. Include a copy of this form with the next communication to applicant.